



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

JRE  
Docket No. 07326-09  
22 February 2010

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 4 February 2010. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you enlisted in the Marine Corps on 21 October 2003. You were absent without authority from 14 March to 16 December 2004, a period of 273 days. You underwent a pre-separation physical examination on 29 March 2005 and were found physically qualified for separation. You were separated from the Marine Corps on 17 October 2005 with a bad conduct discharge pursuant to the approved findings and sentence of a special court-martial which convicted you of the aforementioned period of unauthorized absence.

The Board did not accept your unsubstantiated contention to the effect that the misconduct which resulted in your discharge was

related to your ingestion of lead and other metals that were present in drinking water during your brief period of assignment Camp Pendleton, California. The Board was not persuaded that you were unfit for service by reason of physical disability at the time of your discharge. In addition, it noted that you would not have been entitled to disability separation or retirement even if you had been unfit for duty, as discharge pursuant to the sentence of a court-martial would have taken precedence over disability processing.

In view of the foregoing, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

  
W. DEAN PFEIFFER  
Executive Director